

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of	)	
	)	
Geographic Partitioning and Spectrum	)	WT Docket No. 96-148
Disaggregation by Commercial Mobile	)	
Radio Service Licensees	)	
	)	
Implementation of Section 257 of the	)	GN Docket No. 96-113
Communications Act --	)	
Elimination of Market Barriers	)	

### GTE'S COMMENTS

GTE Service Corporation on behalf of its telephone and wireless companies ("GTE") hereby files comments in response to the Federal Communications Commission's ("FCC" or "Commission") Further Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup> In the *Order*, the Commission adopted rules for broadband personal communications services ("PCS") that liberalize geographic partitioning and spectrum disaggregation by PCS licensees. In the *FNPRM*, the Commission seeks comment on whether to adopt similar partitioning and disaggregation rules for cellular and general wireless communications services ("GWCS") licensees. GTE addresses its comments in this proceeding to the portion of the *FNPRM* dealing with rules for cellular licensees. As discussed below, GTE

<sup>1</sup> Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees, WT Docket No. 96-148, Implementation of Section 257 of the Communications Act -- Elimination of Market Barriers, GN Docket No. 96-113, *Report and Order and Further Notice of Proposed Rulemaking* (released December 20, 1996) ("*Order and FNPRM*").

supports adopting rules for cellular spectrum partitioning and disaggregation similar to those adopted for broadband PCS. In addition, GTE urges the Commission to take additional steps in this docket to ensure that all broadband commercial mobile radio service ("CMRS") licensees are regulated similarly.

#### **I. Discussion**

GTE has long supported Commission efforts to adopt similar rules and regulations for competing wireless services. Recently, GTE filed comments supporting liberalized partitioning and disaggregation of broadband PCS and WCS spectrum.<sup>2</sup> Consistent with its comments in those proceedings, GTE now supports FCC promulgation of similar partitioning and disaggregation rules for cellular service.

##### **A. Technical Issues Related to Cellular Disaggregation**

Noting that the Commission's Rules currently do not allow cellular disaggregation, the Commission seeks comment on whether there are technical or other constraints that would make cellular spectrum disaggregation either impractical or administratively burdensome. The Commission also seeks comment regarding whether future changes, such as the advent of fixed wireless services will affect cellular spectrum disaggregation and merit consideration of adopting interim rules only at this time.<sup>3</sup>

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<sup>2</sup> Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees, WT Docket No. 96-148, GTE Comments (filed August 15, 1996); Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), GN Docket No. 96-228, GTE Comments (filed December 4, 1996).

<sup>3</sup> *Order and FNPRM* at 46 (¶ 95).

There is no doubt that cellular spectrum disaggregation, by creating the potential for other carriers to operate on adjacent frequencies in the same geographic areas, or the same frequencies in adjacent areas, will create additional interference and frequency coordination issues among cellular providers.<sup>4</sup> While dealing with these issues will create some additional burden on cellular licensees and others, this burden would not justify preventing cellular spectrum disaggregation. First, the benefits of open cellular entry and increased flexibility to license holders outweighs the additional burden. Second, the burden created by cellular spectrum disaggregation will not differ from that created by disaggregation of other broadband CMRS spectrum.

GTE also does not believe the FCC should limit its rules to an interim time period. GTE notes that any changes that occur in the cellular industry will likely also affect competing CMRS provider industries such as broadband PCS. Given that the FCC did not limit its PCS spectrum disaggregation rules to an interim time period, it should not do so for cellular spectrum.

#### **B. Amount of Spectrum to Disaggregate**

The Commission seeks comment regarding whether minimum disaggregation standards are necessary for cellular spectrum.<sup>5</sup> In the *Report and Order*, the Commission decided not to place any restrictions on the amount of broadband PCS spectrum that can be disaggregated. Rather, the Commission decided to allow market

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<sup>4</sup> In addition, disaggregation may make number portability more costly to implement and administer. 911 service might also become more costly and difficult for carriers and public safety officials to administer.

<sup>5</sup> *Id.* at 48 (¶100).

forces and available technology to determine how much spectrum is disaggregated.<sup>6</sup>

GTE is aware of no technical issues that would warrant a different rule for cellular spectrum. Accordingly, the Commission should place no restrictions on the amount of spectrum cellular licensees may disaggregate.

### **C. Combined Partitioning and Disaggregation**

GTE supports the Commission's proposal to allow a combination of partitioning and disaggregation for cellular spectrum. This rule would promote both license flexibility and regulatory parity.

### **D. Construction Requirements**

#### **1. Cellular Partitioning**

Noting that the cellular rules provide for a unique method of ensuring that service is extended throughout each market area -- notably, the unserved area application process -- and that parties to a cellular license partitioning must state which party holds the expansion rights to any unserved area, the Commission seeks comment regarding whether any changes need to be made to the cellular spectrum partitioning rules to further facilitate cellular partitioning.<sup>7</sup>

GTE believes that the current cellular spectrum partitioning rules provide carriers and interested parties with the flexibility to obtain cellular spectrum on a partitioned basis. GTE also believes that the current unserved area application process ensures

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<sup>6</sup> *Id.* at 30 (¶ 49).

<sup>7</sup> *Id.* at 49 (¶ 103).

that cellular build-out will occur. Accordingly, GTE does not believe any rule changes are necessary.

## **2. Cellular Disaggregation**

The Commission seeks comment on whether it should adopt a disaggregation construction requirement for cellular licensees similar to that adopted for PCS. There, the Commission required that parties to a disaggregation agreement certify to the Commission which party will be responsible for building-out the remainder of the market.<sup>8</sup> For cellular, the Commission proposes that should the designated party fail to build-out, the unserved portion of the market would be subject to Phase II unserved area applications.<sup>9</sup>

GTE previously supported the Commission's certification requirement for PCS.<sup>10</sup> Consistent with those comments and with the concept of regulatory parity, GTE supports adopting the proposed disaggregation construction rules for cellular licensees.

## **E. License Term**

The Commission notes that the current procedure for partitioned cellular licenses is to grant the partitionee a new 10 year license term, regardless of the expiration date of the original license. The Commission seeks comment on whether, consistent with the license term rule adopted for broadband PCS, it should amend the current

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<sup>8</sup> *Id.* at 34-35.

<sup>9</sup> *Id.* at 49 (¶ 104).

<sup>10</sup> Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees, WT Docket No. 96-148, GTE Comments (filed August 15, 1996) at 9.

procedure in favor of a rule granting a partitioned or disaggregated cellular license only for the remainder of original licensee's term.

GTE does not object to the current rule for partitioned cellular license terms. However, because GTE supported the PCS license term rule ultimately adopted by the Commission, and because such a rule would promote regulatory parity, GTE would support a rule granting a partitioned or disaggregated licensee a license term equal to the number of years remaining on the original license.<sup>11</sup>

#### **F. Licensing Issues**

Should the Commission permit disaggregation of cellular spectrum, the Commission proposes to use partial assignment procedures similar to those adopted for broadband PCS to evaluate and process cellular spectrum disaggregation transactions. GTE supports this proposal.

#### **G. Leasing Spectrum**

In the Wireless Communications Service ("WCS") docket, in addition to proposing liberal disaggregation and partitioning of WCS licenses, the Commission proposed to allow WCS licensees to "franchise" portions of their spectrum and geographic service areas on a leased basis, where the WCS licensee would retain ultimate responsibility for meeting interference and other licensing requirements.<sup>12</sup> In

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<sup>11</sup> See, *id.*

<sup>12</sup> Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), *Notice of Proposed Rulemaking*, GN Docket No. 96-228 (released November 12, 1996) at 11 (¶ 16).

comments addressing this issue, GTE took no position, but stated that if the Commission adopts franchising for WCS, it must also do so for other CMRS licensees.<sup>13</sup>

The FNPRM is conspicuous in its lack of any mention of a franchising proposal for PCS or cellular. Given that the Commission is considering rules that would make WCS spectrum available for CMRS service, and given that the Commission may allow WCS licensees to franchise spectrum and/or service areas, GTE believes the Commission should propose similar rules for PCS and cellular licensees.

## II. Conclusion

GTE supports the Commission's efforts to liberalize cellular providers ability to partition and disaggregate cellular spectrum. As noted herein, GTE supports rules that will give licensees maximum flexibility to serve the public and promote regulatory parity among CMRS licensees.

Respectfully submitted,

GTE Service Corporation and its telephone  
and wireless companies

By

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<sup>13</sup> Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), GN Docket No. 96-228, GTE Comments (filed December 4, 1996) at 8-9.

### Certificate of Service

I, Judy R. Quinlan, hereby certify that copies of the foregoing "GTE's Comments" have been mailed by first class United States mail, postage prepaid, on February 10, 1997 to all parties of record.

Judy R. Quinlan  
Judy R. Quinlan